Obsolete

DEPARTMENT OF AGRICULTURE

WASHINGTON

February 2, 1931.

Ordered Sec # 320 2/2/31 (R)

MEMORANDUM NO. 608

Committee on Real Estate and Housing Plans

The building program in Washington and the impending relocation of a number of departmental activities, among which are Arlington Farm, the greenhouses and other activities on the Mall, the laboratories at American University and the pathological work at Bethesda, Maryland, emphasize the need of the Department for a constructive and thoroughly comprehensive planning program and for unity of control in the location, relocation and coordination, from the standpoint of housing and land utilization, of activities conducted in the District of Columbia and elsewhere, and particularly at near-by farms and other stations situated in Maryland and Virginia.

For the purpose of planning such a constructive and comprehensive program for dealing with these and other major problems involving real estate and housing, and for consideration similarly of current housing and related problems which arise from time to time, Dr. W. W. Stockberger, Director of Personnel and Business Administration, Mr. H. L. Hoffman, Executive Secretary to the Director, and Mr. R. M. Reese, who has been appointed Departmental Real Estate Officer, are hereby constituted a Committee on Real Estate and Housing Plans.

In addition to the formulation of a definite program for housing and for relocation, where necessary or desirable, of such activities as those set forth in the first paragraph of this memorandum, the Committee will report upon and make recommendations concerning housing and related matters which may be referred to it from time to time, but is also authorized to initiate such studies and to make such recommendations as it may deem appropriate from time to time in the interest of the Department. The Committee is authorized to make or have made such surveys and other studies as are necessary for the effective accomplishment of its purposes.

The functions of this Committee will be advisory in character, consisting of fact finding and planning. Its recommendations, upon approval by the Secretary, will be carried into effect by the regularly constituted machinery of the Department and its various bureaus.

I feel that there is a large opportunity for accomplishment in the field of housing as related to the activities of the Department at this time, and that by formulation of definite plans worked out in such careful fashion that they will constitute a constructive program, every branch of the Department will be beneficially affected. To this end the Committee will consult fully with the Chiefs of Bureau and other officials concerned, and the cooperation and suggestions of the staff of the entire Department is invited.

Arthur M. Hyde

Secretary.

I feel that there is a large opportunity for accomplishment in the field of housing as related to the activities of the Department at this time, and that by formulation of definite plans worked out in such careful fashion that they will constitute a constructive program, every bureau of the Department will be beneficially affected. To this end the Committee will consult fully with the Chiefs of Bureau and other officials concerned, and the cooperation and suggestions of the staff of the entire Department is invited.

Arthur M. Hyde

Secretary.

DEPARTMENT OF AGRICULTURE

WASHINGTON, D. C.

JAN 31 1931

Ordered Dep 7/7/31 #326 Sec

MEMORANDUM NO. 609

Amendment to the Administrative Regulations regarding Employment Under Letters of Authorization.

Paragraph 457 of the Administrative Regulations is amended to read as follows:

"Employment Under Letters of Authorization. - Where the salary involved is at a rate not in excess of $540 per annum ($45 per month or $1.50 per day) employment outside of Washington, D.C., under letter of authorization may be indefinite as to duration.

Where the salary involved is at a rate in excess of $540 per annum, employment outside of Washington, D. C., under letter of authorization must not exceed 30 days in any one period of 12 months. If employment for a longer period is necessary a regular appointment must issue and specific authority of the Civil Service Commission must be obtained for the extension. (See paragraphs 439 and 445 to 456, inclusive.)

Reports of employment under letters of authorization shall be made in accordance with paragraph 437."

The above is necessary in order that the Administrative Regulations of the Department may conform with the provisions of Paragraph 6, Subdivision 1, Schedule A of the Civil Service Rules and Regulations.

C. W. Marvin

Acting Secretary.

DEPARTMENT OF AGRICULTURE

WASHINGTON, D. C.

Ordered dup 2/5/31 (12) # 324 Sec

MEMORANDUM NO. 610

Amendment to the Administrative Regulations regarding Extensions of Temporary Appointments.

Paragraph 443 of the Administrative Regulations is amended to read as follows:

"Temporary Appointments in Classified Positions for Job Service or During Absence of Permanent Employee. - When the services of a temporary assistant in a classified position are required for the performance of a specific job of work, or during the absence of a permanent employee, a temporary appointment may be recommended for a period not exceeding three months, which may be extended for an additional period not exceeding three months with the prior approval of the district or local secretary (see paragraph 439). A request for a certification of eligibles must be transmitted to the district or local secretary, giving a statement of the nature of the duties and the full period for which it is contemplated the service will be required. Recommendation for appointment under the certificate or authorization received in response to such a request must be in accordance with these regulations (see paragraphs 424 and 428). No appointment may be made for a period in excess of that authorized by the district secretary.

A temporary appointment to a classified position for a period not exceeding 30 days may be recommended in the monthly lists (see paragraph 437), but report should be made in each case to the district secretary immediately when the person is employed."

Paragraph 447 of the Administrative Regulations of the Department is amended to read as follows:

"Prior Approval for Extension of Temporary Appointments Required. - The prior approval of the district secretary is required for the extension of all temporary appointments."

Paragraph 448 is revoked.

Paragraph 453 of the Administrative Regulations of the Department is amended by the elimination of the last paragraph reading:

"(3) For an additional period not to exceed three months in extension of an original appointment made through certification or authorization by the Commission for three months in the absence of eligibles."

Paragraph 454 of the Administrative Regulations is amended to read as follows:

"Authority for Temporary Appointments and Extensions. - Prior authority of the Civil Service Commission is required for the following:

(1) Any temporary appointments which will exceed 30 days' duration, except as provided in Paragraph 453.

(2) The extension of any temporary appointment.

Authority for extension of temporary appointments should be requested in ample time for prior approval by the Commission. Requests should show the necessity for the extension and name a definite date when the work will be completed."

The above action is necessary to correct the regulations to conform with the present procedure of making appointments and due to the fact that under date of January 17, 1931 the Civil Service Commission withdrew the general authority for the extension beyond three months for an additional period not to exceed three months of all original appointments made through certification from the Commission's register or authorized by the Commission for three months in the absence of eligibles for service outside of Washington, D.C. The withdrawal of this authority is effective as of February 1, 1931.

All bureaus will see that each recommendation form includes information as to the necessity for the extension of a temporary appointment and a definite date as to when the work will be completed. If this information is not furnished, the Commission will withhold action upon the request for extension until it is received. The Commission will likewise expect definite information as to the nature of the work and length of time contemplated it will last on all requests for original temporary appointment or for the certification of eligibles to fill a temporary position.

R. N. Denlaf
Acting Secretary.

Paragraph 454 of the Administrative Regulations is amended to read as follows:

"Authority for Temporary Appointments and Extensions. - Prior authority of the Civil Service Commission is required for the following:

(1) Any temporary appointments which will exceed 30 days' duration, except as provided in Paragraph 455.

(2) The extension of any temporary appointment.

Authority for extension of temporary appointments should be requested in ample time for prior approval by the Commission. Requests should show the necessity for the extension and name a definite date when the work will be completed."

The above action is necessary to correct the regulations to conform with the present procedure of making appointments and due to the fact that under date of January 17, 1931 the Civil Service Commission withdrew the general authority for the extension beyond three months for an additional period not to exceed three months of all original appointments made through certification from the Commission's register or authorized by the Commission for three months in the absence of eligibles for service outside of Washington, D.C. The withdrawal of this authority is effective as of February 1, 1931.

All bureaus will see that each recommendation form includes information as to the necessity for the extension of a temporary appointment and a definite date as to when the work will be completed. If this information is not furnished, the Commission will withhold action upon the request for extension until it is received. The notice will likewise request definite information as to the nature of the work and length of time contemplated it will last on all requests for original temporary appointment or for the certification of an eligible to fill a temporary position.

DEPARTMENT OF AGRICULTURE

WASHINGTON

Ordered duplicated 2/27/31 Order #363 Sec (R)

MEMORANDUM NO. 611

Cancellation of Condition No. 7 on Standard Government Bill of Lading.

In view of the refusal in some instances of common carriers to accept for transportation Department material under the standard Government bill of lading form No. 1058, G.A.O., General Regulations No. 69, without the cancellation therefrom of section 7 of "Conditions" under "General conditions and instructions" on the reverse of the form, which section reads: "In case of loss, damage, or shrinkage in transit, the rules and conditions governing commercial shipments shall not apply as to period within which notice thereof should be given carriers or to period within which claims therefor shall be made or suit instituted," officers and employees of the Department by whom bills of lading are executed on behalf of the Department should, in case of such specific refusal, cancel the section in question and annex thereto and sign with official title a marginal note, "Cancelled prior to execution under authority of the Secretary of Agriculture." The deletion of the section should be confined to the cases where the carrier makes this action a condition precedent to the transportation of the material.

R. W. Dunlap

Acting Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF PUBLIC ROADS
WASHINGTON, D. C.

IN YOUR REPLY PLEASE
REFER TO FILE NO. C-1

February 10, 1931.

Dr. W. W. Stockberger, Director,
Personnel and Business Administration,
Department of Agriculture,
Washington, D. C.

Dear Dr. Stockberger:

This office has just received a telegram from our District Engineer in Portland, Oregon, to the effect that transportation companies at that point are refusing to accept shipments on government bills of lading unless paragraph seven on the back of the bills of lading is deleted. We are wiring our District Engineer that pending further instructions he may delete the paragraph referred to and make a statement on the bills of lading that the conditions of paragraph seven are waived under protest.

This information is furnished for any action you may deem necessary toward adjusting this matter and furnishing this office definite advice in regard thereto, in order that our District Engineer may be further instructed.

Very truly yours,

Division of Control,

By, C D Curtis
Chief of Division.

(Cir. 40)

Circular No. 40

WAR DEPARTMENT,
Washington, August 12, 1930.

I--Bills of lading.--In connection with existing regulations covering the issuance of bills of lading or certificates in lieu of lost bill of lading, the following procedure will be observed in the case of all service to be performed on and after September 1, 1930:

Prior to execution of Standard Form No. 1058, Bill of Lading (original); Standard Form No. 1059, Bill of Lading (shipping order), and Standard Form No. 1061, Certificate in Lieu of Lost Bill of Lading, Condition No. 7 on the reverse thereof will be deleted and the notation "By order of Secretary of War Condition No. 7 deleted prior to execution" will be inserted over signature of issuing officer in a suitable place on the reverse of the above named forms. The prescribed notation may be effected by means of indelible pencil, ink, typewriter, or rubber stamp.

(A.G. 552.12(7-30-30).)

II--Subscription charges for periodicals.--Pending the revision of AR 5-260 (The Assistant Secretary of War - Procurement of Supplies, Periodicals and Certain Books), July 2, 1927, the following procedure will be observed in lieu of that now prescribed in paragraphs 3 and 4 of those regulations:

1. Hereafter subscription charges for newspapers, magazines and other periodicals for official use of any office under the Government of the United States may be paid for in advance from appropriations available therefor, notwithstanding the provisions of section 3648 of the Revised Statutes. Act June 12, 1930.

2. Advance payments for subscriptions to newspapers, magazines and periodicals for official use are authorized from appropriations available therefor without a certificate by the respective heads of the executive departments or other Government establishments that they are for official use. MS. Comp. Gen. July 22, 1930.

3. This does not authorize the purchase of, or subscription to, magazines or other periodicals except such as may be shown to be required for official use and for which an appropriation is available. MS. Comp. Gen. July 22, 1930.

4. Daily newspapers are not "periodicals" and the purchase of, or subscription to, daily newspapers is prohibited, except when payments are made from appropriations specifically authorizing such subscriptions.

If subscriptions thereto are authorized by law, payments therefor may be made in advance under the same restrictions as apply to periodicals.

(A.G. 461 (8-4-30).)

III--Stenciling of packages - Interpretation of paragraph ½(c)(2), AR 35-6560.--The following interpretation of paragraph ½(c)(2), published in Section III, Circular No. 26, War Department, 1930, is published for the information and guidance of all concerned:

When a standard unit of equipment, such as a Chest, Medical and Surgical, or a Chest, Tool, is warehoused as such, it will not be necessary to have printed or stenciled on the outside the entire list of contents, but simply to indicate as follows: Item 99,270, "Chest, Medical and Surgical, Complete", or Item 77,500, "Chest, Tool, Large, Complete". In case these chests are incomplete, add "Less the following items", or "Less deteriorating items", or "Less alcohol, whisky and narcotics".

(A.G. 140.2 (8-1-30).)

IV--Efficiency reports - Changes in AR 600-185.--Pending the publication of changes in AR 600-185 (Personnel - Efficiency Reports), December 31, 1927, the following changes in those regulations are published for the information and guidance of all concerned:

Paragraph 8a(3) as published in Circular No. 62, War Department, 1929, is changed to read as follows:

8. Unfavorable entries.

a. * * *

* * * * *

(3) The provisions of (1)(a) and (b) above are equally applicable to the remarks of military superiors. If the forwarding indorsement of the next or a higher military superior contains any new matter unfavorable to the officer reported upon, or if a military superior reduces to "unsatisfactory" or "inferior" any rating of "satisfactory" or above, the entire report, including indorsements, will be referred to the officer reported upon.

* * * * *

(A.G. 201.6 (6-17-30).)

V--Rates for shipment of excess baggage.--Section III, Circular No. 23, War Department, 1929, as amended by Section II, Circular No. 32, War Department, 1930, is further amended by adding the following:

Between Honolulu and Manila, China or Japan, $1.25 per hundred pounds.

Between Manila and China or Japan, 75 cents per hundred pounds.

(A.G. 524.11 (6-26-30).)

By order of the Secretary of War:

C. P. SUMMERALL,
General,
Chief of Staff.

Official:
C. H. BRIDGES,
Major General,
The Adjutant General.

Department of Justice,
Washington.

June 13, 1930.

Sir:

I have the honor to acknowledge the receipt of your letter of the 12th instant, wherein you state that:

> "An unprecedented situation has arisen which tends seriously to affect and impede execution of duties of the War Department with respect to transportation of the Army and its supplies, due to the recent action of common carriers in declining to accept shipments of freight to be transported under the standard Government form of bill of lading. This action by the carriers resulted from adoption of a new form of Government bill of lading, the use of which was prescribed by the Comptroller General of the United States in General Regulations No. 69, dated August 24, 1928. The reason stated by carriers for their refusal to accept the new form is that a new clause, condition 7, reading as follows: 'In case of loss, damage, or shrinkage in transit, the rules and conditions governing commercial shipments shall not apply as to period within which notice thereof shall be given the carriers or to period within which claim therefor shall be made or suit instituted' was added therein."

My opinion is requested as to whether the Secretary of War has authority to cancel or authorize cancellation of clause 7 in Government bills of lading issued in his Department.

Your inquiry involves two questions: (1) Whether in contracts for the shipment, transportation and delivery of Government property you are required by General Regulations No. 69 of the Comptroller General to include Clause 7 of the Standard Form

Government Bill of Lading. (2) If not required by the regulation of the Comptroller General to include this clause, whether you may lawfully make shipments of Government property under Standard Forms of the Government Bill of Lading with Clause 7 eliminated.

In addition to Clause 7, the Standard Form of Government bill of lading contains the following pertinent clauses:

> 2. Unless otherwise specifically provided or otherwise stated hereon, this bill of lading is subject to the same rules and conditions as govern commercial shipments made on the usual forms provided therefor by the carrier.
>
> 3. Shipment made upon this bill of lading shall take no higher rate than would be charged had the shipment been made upon the uniform straight bill of lading or uniform express receipt.

The powers and duties of the Comptroller General are defined by Title III of the "Budget and Accounting Act, 1921" (42 Stat. 20, 23; U. S. C. Title 31, Secs. 41, 44, 71, 46, 49, 52, 54.) Among other provisions not material to this opinion the Act contains the following:

> Sec. 301. There is created an establishment of the Government to be known as the General Accounting Office, which shall be independent of the executive departments and under the control and direction of the Comptroller General of the United States * * *.
>
> * * * * * * * * * * * * * * * *
>
> Sec. 304. All powers and duties now conferred or imposed by law upon the Comptroller of the Treasury or the six auditors of the Treasury Department, and the duties of the Division of Bookkeeping and Warrants of the Office of the Secretary of the Treasury relating to keeping the personal ledger accounts of disbursing and collecting officers, shall, so far as not inconsistent with this Act, be vested in and imposed upon the General Accounting Office and be exercised without direction from any other officers. ***

Sec. 305. Section 236 of the Revised Statutes is amended to read as follows:

'Sec. 236. All claims and demands whatever by the Government of the United States or against it, and all accounts whatever in which the Government of the United States is concerned, either as debtor or creditor shall be settled and adjusted in the General Accounting Office.'

* * * * * * * * * **

Sec. 306. All laws relating generally to the administration of the departments and establishments shall, so far as applicable, govern the General Accounting Office.

* * * * * * * * * *

Sec. 309. The Comptroller General shall prescribe the forms, systems, and procedure for administrative appropriation and fund accounting in the several departments and establishments, and for the administrative examination of fiscal officers' accounts and claims against the United States.

* * * * * * * * * *

Sec. 311. (f) The Comptroller shall make such rules and regulations as may be necessary for carrying on the work of the General Accounting Office. ***

Sec. 312. (c) The Comptroller General shall specially report to Congress every expenditure or contract made by any department or establishment in any year in violation of law.

(d) He shall submit to Congress reports upon the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and upon the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.

Sec. 313. All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them.

Before the enactment of the Budget and Accounting Act, the Comptroller of the Treasury had the power to "prescribe the

forms of keeping and rendering all public accounts", except those relating to the Postal revenues, Act of July 31, 1894, c. 174, sec. 5, 28 Stat. 396, but I am unable to find any statute prior thereto authorizing the Comptroller of the Treasury to prescribe the terms or conditions of a bill of lading contract which the various departments and establishments of the Government should make, nor does the said Budget and Accounting Act confer such authority upon the Comptroller General.

Under Sections 309 and 311 (f), supra, the Comptroller is authorized to prescribe by General Regulations the forms to be used in "Administrative appropriation and fund accounting in the several Departments and establishments", but no authority is granted by these provisions to limit by Regulation or by the adoption of Standard Forms the authority vested in other officers of the Government to make lawful contracts in its behalf. This conclusion appears to be quite obvious on the face of the Statute. It is as clearly supported by the legislative history. Section 309 was not in the original Budget and Accounting bill, H. R. 9783, 66th Cong., 2nd Sess., as passed by the House. This Section originated in the Senate. The Report of the Committee recommending the inclusion of Section 309 contains the following:

> It has been repeatedly pointed out that the principal defects of the Government accounting system result from the absence of unified control and from the diffusion of accounting authority and responsibility among numerous officials, each of whom has effectually exclusive jurisdiction in his own field. Any satisfactory system of Government accounting should have as its underlying principle the investment of final and exclusive authority and responsibility over all accounting and auditing operations in a single official; and this principle should be applied to the furthest extent consistent with the exercise of an undivided control over

strictly administrative matters by the heads of departments and establishments.

The Government has become notorious for lack of uniformity in its accounting methods. ***

If new provisions are to be made for the accounting establishment of the United States at this or any other time, they should accomplish a concentration of authority over all Federal accounting activities. They should confer upon a single official the power to prescribe and to supervise departmental methods of bookkeeping, and of examining claims and accounts of fiscal officers ***.

It is the feeling of the Committee that the House Bill is deficient in that it accomplishes none of these things. The committee has, therefore, inserted in the bill additional provisions which it believes necessary to bring about a proper reorganization of the accounting system of the Government ***.

The committee bill *** confers upon the General Accounting office the authority and power to prescribe and to supervise methods of accounting in the departments; to prescribe and supervise the methods employed in the administrative examination of accounts and claims; and to exercise in general a control over all the accounting procedures of the Government ***.

In the committee bill the comptroller general of the United States is given exclusive jurisdiction over all matters relating to auditing and accounting forms, systems, and procedure *** Senate Rept. No. 524, 67th Cong. 2d Sess.

The question whether in the exercise of his powers as an accounting officer the Comptroller General may require by General Regulation inclusion of Clause 7 in the Standard Form of Government Bill of Lading depends upon whether the clause relates merely to the form in which agreement is expressed, or affects the substance of the agreement itself. It would perhaps suffice to say that the refusal of the carriers to receive shipments under the Standard Form, which, being different from the commercial form approved by the Interstate Commerce Commission, cannot be imposed

upon them against their will, at least in the absence of statutory authority, concludes the point that the inclusion of Clause 7 is dependent upon negotiation and agreement; but it is only necessary to read Clause 3 in connection with Clause 7 to see how vitally the bargain is controlled and prescribed by the adoption of the Standard Form. Clause 3 provides that the rates shall not exceed the rates charged on commercial shipments, while Clause 7 requires a change of substance in the contract upon which such shipments are carried. This is asking something for nothing, and the carriers are not required to assent to such conditions merely because, in the exercise of his powers as an accounting officer, the Comptroller General has prescribed a form which contains them.

A bill of lading is primarily a contract between the carrier and the shipper (St. Louis, Iron Mtn. So'n. Ry. v. Starbird, 243 U. S. 592, 597) and unless the Government is content to accept the agreement in substance prescribed for commercial shipments by the Interstate Commerce Commission, pursuant to Sec. 20 of the Interstate Commerce Act, the terms of shipment are necessarily a matter of negotiation between the parties. Of course, the bill of lading is an instrument which in addition to evidencing the contract of carriage must serve a secondary purpose in connection with Government accounting, and for such purposes no doubt the Comptroller General may prescribe its form, provided he does not undertake to impose contractual obligations upon the parties which they are legally entitled to negotiate. In its use for the purpose of "administrative appropriation and fund accounting in the several departments and establishments" of the Government, the

form of bill of lading, after its contractual terms and conditions have been agreed upon, is, by virtue of Sec. 309 of the Budget and Accounting Act, subject to the approval of the Comptroller General as a form for accounting purposes; but such approval cannot in any way extend to the contractual obligations, which the parties are entitled freely to negotiate without dictation from the Comptroller General, whose function is that of an accounting officer.

Congress has not authorized the Comptroller General to negotiate or prescribe in advance the terms of such contracts, but on the contrary has by legislation specially charged the Secretary of War with that duty in so far as the War Department is concerned. The authority of the Secretary of War in this regard is defined by the following statutory provisions:

Section 220, Revised Statutes (U. S. C., Title 10, Sec. 1363) provides:

> The transportation of troops, munitions of war, equipment, military property, and stores throughout the United States, shall be under the immediate control and supervision of the Secretary of War and such agents as he may appoint.

The Act of June 4, 1920, c. 227, sub. chap. 1, Sec. 9 (41 Stat. 766; U. S. C., Title 10, Sec. 72) provides that the Quartermaster General, under the authority of the Secretary of War, shall be charged with "the transportation of the army by land and water, including the transportation of troops and supplies by mechanical or animal means; with the furnishing of means of transportation of all classes and kinds required by the army; and with such other duties not otherwise assigned by law as the Secretary of War may prescribe: ***."

The Act of July 5, 1884, c. 217 (23 Stat. 111; U. S. C., Title 10, Sec. 73) provides:

> The Quartermaster General and his officers, under his instructions, wherever stationed, shall receive, transport, and be responsible for all property turned over to them, or any one of them, by the officers or agents of any Government survey, for the National Museum, or for the civil or naval departments of the Government, in Washington or elsewhere, under the regulations governing the transportation of Army supplies, the amount paid for such transportation to be refunded or paid by the bureau to which such property or stores pertain.

Paragraph 2a, AR 30-905 provides:

> The Quartermaster General is responsible for the supervision and direction of all matters connected with the transportation of the personnel and property of the Army by land and water, and is also designated as War Department traffic manager and will exercise jurisdiction over all transportation activities of the War Department.

The promulgation of Regulation 69 in so far as it interferes with the exercise of the statutory authority thus granted to the Secretary of War is not an exercise of the power to make regulations for accounting purposes granted to the Comptroller General, but is in effect an attempt to limit the authority of the Secretary of War, expressly granted by Act of Congress, and therefore to this extent at least is invalid. (United States v. United Verde Copper Co., 196 U. S. 207, 215; Williamson v. United States, 207 U. S. 425, 462; United States v. George, 228 U. S. 14, 20; Intern'l. Ry. Co. v. Davidson, 257 U. S. 506, 514.)

I am therefore of the opinion that there is nothing contained in this Regulation which can prohibit the exercise of the authority of the Secretary of War to negotiate lawful contracts for the furnishing of "means of transportation of all classes and kinds required by the Army".

The question remains, however, as to whether, in the exercise of this authority, the Secretary of War may cancel Clause 7 of the Government bill of lading, as prescribed by Regulation 69 of the Comptroller General, and make shipments under the form prescribed in the Regulation with this clause eliminated. The legal effect of the elimination is to bring into operation Clause 2, and thereby to import into the contract of carriage the limitations contained in commercial bills of lading approved by the Interstate Commerce Commission under Sec. 20 of the Interstate Commerce Act, which limit the time in which suits may be brought against the carrier and impose as a condition of suit the presentation of claim within a limited period of time. The question whether such limitations may be imposed upon the Government's right to sue is one which has been the subject of judicial consideration and determination. The question was presented and decided by the Circuit Court of Appeals for the Fourth Circuit in United States v. Seaboard Airline Ry. Co., 22 F. (2d) 113, where it was held that a bill of lading which imposed the limitations contained in the commercial bills of lading approved by the Interstate Commerce Commission was binding upon the Government. In M. K. & T. RR Co. v. United States, 52 C. Cls. 373, and in American Ry. Express Co. v. United States, 62 C. Cls. 615, the Court of Claims has expressed opinions to the contrary.

The question having thus been considered in the courts, and a conflict of judicial decision thereon having arisen, I am constrained to withhold my official opinion as to whether you may lawfully make shipments of government property under Standard Forms of the Government Bill of Lading with Clause 7 eliminated, and thus

impose upon the Government's right to sue the carrier the limitations which are contained in the commercial bills of lading approved by the Interstate Commerce Commission. My predecessors have repeatedly refused to render opinions which might bring this Department into conflict with a judicial tribunal, and I do not feel justified in departing from this practice, instances of which will be found in 20 Op. 618; 20 Op. 729; 23 Op. 221; 24 Op. 59; 32 Op. 472; 33 Op. 86; 35 Op. 297. For your information I may add that this Department declined to apply to the Supreme Court for a writ of certiorari to review the decision in the Seaboard Airline Case, and has regarded the reasoning of the opinion in that case as sufficient warrant for its action in so doing.

Respectfully submitted,

Attorney General.

The Honorable,

The Secretary of War.

DEPARTMENT OF AGRICULTURE

WASHINGTON

March 5, 1931.

Ordered dup 3/5/31 Sec #371

MEMORANDUM NO. 612

Four-hour Saturdays.

The attention of officers and employees of the Department is invited to the provisions of Public No. 783, 71st Congress, Second Session, approved March 3, 1931, as follows:

AN ACT

Providing for Saturday half-holidays for certain Government employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the effective date of this Act four hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays throughout the year, with pay or earnings for the day the same as on other days when full time is worked, for all civil employees of the Federal Government and the District of Columbia, exclusive of employees of the Postal Service, employees of the Panama Canal on the Isthmus, and employees of the Interior Department in the field, whether on the hourly, per diem, per annum, piece-work, or other basis: Provided, That in all cases where for special public reasons, to be determined by the head of the department or establishment having supervision or control of such employees, the services of such employees can not be spared, such employees shall be entitled to an equal shortening of the workday on some other day: Provided further, That the provisions of this Act shall not deprive employees of any leave or holidays with pay to which they may now be entitled under existing laws.

Effectively immediately, the provisions of this Act will be observed as to all officers and employees of the Department wherever located and whether permanent or temporary. When within the judgment of the chief of bureau or of any supervising officer in charge of field personnel to whom the chief of bureau may delegate the determination, special public reasons exist which prevent the release of an employee on any Saturday afternoon, such chief of bureau or supervising officer is authorized to grant equivalent time on some other work day. A written record should be kept of all required work on Saturday in excess

of four hours, comprising the name of the employee, the date, and the amount of time in hours and fractions thereof accruing under the above provision; and when equivalent time has been taken, the record should be completed by an entry showing the date and the time of beginning and ending of the equivalent period.

The following paragraphs of the Administrative Regulations are amended as follows:

494. SATURDAYS. - Saturdays will be charged as four hours in annual leave and as a whole day in sick leave and leave without pay.

~~full day~~ Moreover, as, in view of opinion of Attorney General dated 8/17/31 (W.S.)

495. OFFICE HOURS IN THE DISTRICT OF COLUMBIA. - In the District of Columbia the hours of duty, unless otherwise specially ordered, shall begin at 9 a.m. and end at 4:30 p.m. with one-half hour for luncheon between 11:30 a.m. and 1:30 p.m., to be designated in the different bureaus by the respective chiefs. On Saturdays four hours shall constitute a day's work and the office hours unless otherwise directed will be from 9 a.m. to 1 p.m. without a lunch period. All employees will be required strictly to observe the office hours.

496. HOURS OF DUTY FOR MECHANICS IN THE DISTRICT OF COLUMBIA.- Mechanics in the department in the District of Columbia shall work not less than seven and one-half hours nor more than eight hours per day, exclusive of one-half hour for luncheon, on all week days except Saturday, when the work day shall consist of four hours exclusive of lunch time. The Mechanical Superintendent will arrange the hours for beginning and ending the day's work in the Mechanical Shops. Chiefs of bureaus in which mechanics not under the direction of the Mechanical Superintendent are employed will fix the time of beginning and ending of the day's work of such mechanics to suit the best interests of the bureau. (Law 837.)

Arthur M. Hyde

Secretary.

Dee
WWS

UNITED STATES DEPARTMENT OF AGRICULTURE

DIRECTOR OF PERSONNEL AND BUSINESS ADMINISTRATION

WASHINGTON

3/19/31

MR. HALL:

Referring to our conversations on the subject, copy of the opinion of the Acting Attorney General as rendered to the President March 17 is attached. On page 4 of this opinion the following conclusion appears:

> " * * * insofar as employees embraced within the terms of the Act of March 3, 1931, are concerned Saturday is to be counted as four hours rather than as a full day in computing annual leave under the Act of March 3, 1893, as amended, but in computing sick leave under that Act is to be counted as a full day."

Our order of March 5 as originally signed by the Secretary is in harmony with the Attorney General's opinion, since we say:

> "494. Saturdays. - Saturdays will be charged as four hours in annual leave and as a whole day in sick leave and leave without pay."

The only branches of the Government that have put out a contrary ruling, so far as our check has revealed, are the Treasury Department and the Commissioners of the District of Columbia. These presumably will now have to issue revised orders.

In the circumstances I presume the Secretary will desire our order to stand as it is for the present, subject of course to any future developments. Will you let me know about this so that I can be sure, at your early convenience?

When you have finished with it, will you please also let me have back the opinion of the Attorney General, as this is the only copy we have and we would like to study it further on some other points.

WAS

Mr Hall says Dear: Our order is in harmony with the Attorney Gen's ruling* therefore our original order stands. 3/20/31 WWS

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THE WHITE HOUSE

WASHINGTON

March 18, 1931.

My dear Mr. Secretary:

By direction of the President I am sending herewith, for your information, a copy of an opinion by the Acting Attorney General concerning the construction to be placed upon the Act of March 3, 1931 (Pub. 783, 71st Cong.), entitled "An Act Providing for Saturday half holidays for certain Government Employees", with respect to whether or not Saturdays shall be considered as full days for purposes of computing annual leave and sick leave.

Sincerely yours,

LAWRENCE RICHEY
Secretary to the President

Honorable Arthur M. Hyde
Secretary of Agriculture
Washington, D. C.

Enclosure

rch 17, 1931

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Department of Justice
Washington

March 17, 1931

Sir:

I have the honor to comply with your request of March 7, 1931, for my opinion concerning the construction to be placed upon the Act of March 3, 1931 (Pub. 783, 71st Cong.), entitled "An Act Providing for Saturday half holidays for certain Government Employees," with respect to whether or not Saturdays shall be considered as full days for purposes of computing annual leave and sick leave.

The Act provides as follows:

> "That on and after the effective date of this Act four hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays throughout the year, with pay or earnings for the day the same as on other days when full time is worked, for all civil employees of the Federal Government and the District of Columbia, exclusive of employees of the Postal Service, employees of the Panama Canal on the Isthmus, and employees of the Interior Department in the field, whether on the hourly, per diem, per annum, piecework, or other basis: Provided, That in all cases where for special public reasons, to be determined by the head of the department or establishment having supervision or control of such employees, the services of such employees can not be spared, such employees shall be entitled to an equal shortening of the workday on some other day: Provided further, That the provisions of this Act shall not deprive employees of any leave or holidays with pay to which they may now be entitled under existing laws."

The Act of March 3, 1893, c. 211, 27 Stat. 675, 715, as amended by the Acts of March 15, 1898, c. 68, 30 Stat. 277, 316, July 7, 1898, c 571, 30 Stat. 652, 653, and February 24, 1899, c. 187, 30 Stat. 846, 890, prescribes hours of labor in the Executive Departments and provides for annual leave and sick leave. As now incorporated in the United States Code (U.S.C. Title 5, Secs. 29-30), the amended Act reads as follows:

> "It shall be the duty of the heads of the several executive departments, in the interest of the public service, to require of all clerks and other employees, of whatever grade or class, in their respective departments, not less than seven hours of labor each day, except Sundays and days declared public holidays by law or Executive order. The heads of the departments may, by special order, stating the reason, further extend the hours of any clerk or employee in their departments, respectively; but in case of an extension it shall be without additional compensation.
>
> "The head of any department may grant thirty days' annual leave with pay in any one year to each clerk or employee, such leave to be exclusive of Sundays and legal holidays. Where some member of the immediate family of a clerk or employee is afflicted with a contagious disease and requires the care and attendance of such employee, or where his or her presence in the department would jeopardize the health of fellow clerks, and in exceptional and meritorious cases, where a clerk or employee is personally ill, and where to limit the annual leave to thirty days in any one calendar year would work peculiar hardship, it may be extended, in the discretion of the head of the department, with pay, not exceeding thirty days in any one case or in any one calendar year. This section shall not be construed to prevent the head of an executive department from granting thirty days' annual leave with pay in any one year to a clerk or employee, notwithstanding such clerk or employee may have had during such year not exceeding thirty days' leave with

pay on account of sickness. Nor shall it be construed to mean that so long as a clerk or employee is borne upon the rolls of the department in excess of the time herein provided for or granted that he or she shall be entitled to pay during the period of such excessive absence, but that the pay shall stop upon the expiration of the granted leave."

Attorney General Olney, in an opinion of February 10, 1894 (20 Ops. 716, 718), construing the Act of March 3, 1893, held that when computing both annual leave and sick leave Sundays and holidays occurring during the absence should be charged against the leave of the employee. Subsequently, the amendment of February 24, 1899, directed "that the thirty days' annual leave of absence with pay in any one year to clerks and employees in the several Executive Departments authorized by existing law shall be exclusive of Sundays and legal holidays." It will be observed that the amendment made no change in the matter of computing sick leave.

Since 1904, various executive orders, issued from time to time, have prescribed periods of less than seven hours for a day's work on Saturday during the summer months. Generally, these orders have differed in language in no material respect from that of May 9, 1927 (the latest one), which is copied below:

> "It is hereby ordered that from the first Saturday of June to the last Saturday of September, both inclusive, of each year until further notice, four hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays for all clerks and other employees of the Federal Government, wherever employed; and all Executive or other orders in conflict herewith, except the Executive Order of April 4, 1908, relating to certain naval stations, are hereby revoked.
>
> "Provided, however, that this Order shall not apply to any bureau or office of the Government, or to any of the clerks or other employees thereof, that may for special public reasons by excepted therefrom by the head of the Department or establishment having supervision or control of such bureau or office, or where the same would be inconsistent with the provisions of existing law."

While it is perhaps unnecessary to consider the source of the President's power to issue such orders, it is worthy of note that Saturday afternoon has been made a legal holiday by law in the District of Columbia (25 Ops. A. G. 40, 45) and is commonly known to be observed as such by law or custom in various other parts of the country. (See Cong. Rec. v. 74, p. 6739; H. Rept. 1498, 71st Cong.) Under the statute, if a day is made a holiday by law or executive order the requirement of seven hours of labor does not apply, and, considering Saturday afternoon as such a holiday, it was competent to prescribe the hours of labor by administrative action. (22 Dec. Compt. 217, 219.)

The cited opinion of the Comptroller (1915) recognized a practice in the Treasury Department of charging four hours toward annual leave for absences on Saturday affected by the executive orders. It appears from inquiries that the same practice has generally prevailed in the other departments, at least since that time. In the matter of sick leave, on the other hand, it appears that the practice generally has been to consider such Saturdays as full days -- and upon this it may be remarked that since Sundays and holidays are charged when intervening during periods of sick leave, under the Opinion of February 10, 1894, the conclusion that Saturday afternoons also should be included is irresistible.

Thus for many years prior to the passage of the Act of March 3, 1931, there had been substantial uniformity of practice in the various Departments of charging Saturdays affected by the executive orders as full days in computing sick leave and as four hours in computing annual leave. This was quite consistent with the statute as amended by the Act of February 24, 1899, and is to be taken as settled administrative construction of that Act and of the executive orders which were issued consistently with its terms. The Act of March 3, 1931, employed the language of these executive orders, and in so doing is to be understood as adopting the administrative construction which prevailed before its passage. It is entitled "An Act providing for Saturday half holidays for certain Government employees". The Comptroller General, in an Opinion of March 7, 1931, has declared that "As to employees whose regular work day is eight hours the statute grants a half holiday, and as to employees whose regular work day is seven hours the statute grants a part holiday of three hours". The half or part holiday thus granted is within the purview of the amendment of February 24, 1899, which provided that the annual leave "shall be exclusive of *** legal holidays". This amendment had specific reference to annual leave. There has been no such amendment with reference to sick leave, and under the ruling of Attorney General Olney, Saturdays, Sundays and holidays must be included in computing sick leave.

Conclusion follows that insofar as employees embraced within the terms of the Act of March 3, 1931, are concerned Saturday is to be counted as four hours rather than as a full day in computing annual leave, under the Act of March 3, 1893, as amended, but in computing sick leave under that Act is to be counted as a full day.

Respectfully,

THOMAS D. THACHER
Acting Attorney General

The President

The White House

STATUS, AS OF MARCH 9, OF HOW SATURDAY ABSENCE WILL BE CHARGED AS ANNUAL LEAVE.

War Department - Not covered by new regulation, but propose to charge 4 hours.

Post Office Department - Question under consideration. Nothing yet decided.

Justice - Had issued order to charge 4 hours in annual leave, but now under reconsideration in view of Cabinet discussion. Revision possible.

Navy Department - Not covered by order issued. To be submitted to Comptroller General.

General Accounting Office - To charge 4 hours for annual leave.

Treasury Department - Saturdays charged full day in all kinds of leave, annual, sick, or without pay.

Language of Treasury Order:

> Whenever employees can not be spared at the expiration of the four-hour period, you are authorized and directed to excuse on some other day such employees for an amount of time equal to the overtime worked on Saturday as will best meet the needs of your office. Absence of an employee all day Saturday, whether on annual, sick or without-pay leave, will be charged as a full day.

Labor Department - Instructions issued directing 4-hour charge for annual; but these regarded as tentative. Matter may be reconsidered.

Commerce Department - 4 hours to be charged.

Interior Department - 4 hours to be charged.

State " 4 " " " " (tentative)!

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF PERSONNEL AND BUSINESS ADMINISTRATION

WASHINGTON

MR. GLADMON:

BUREAU OF THE BUDGET
WASHINGTON

March 11, 1931.

SATURDAY HALF HOLIDAY

TO THE HEADS OF DEPARTMENTS AND ESTABLISHMENTS.

For your information the following correspondence between the War Department and this office is quoted:

"WAR DEPARTMENT
Washington

March 10, 1931.

"The Director,
Bureau of the Budget,
Washington, D. C.

"Sir:

"The act entitled 'An Act providing for Saturday half holidays for certain Government employees,' approved March 3, 1931, provides -

> "That on and after the effective date of this Act four hours, exclusive of time for luncheon, shall constitute a day's work on Saturdays throughout the year, with pay or earnings for the day the same as on other days when full time is worked, for all civil employees of the Federal Government and the District of Columbia, exclusive of employees of the Postal Service, employees of the Panama Canal on the Isthmus, and employees of the Interior Department in the field, whether on the hourly, per diem, per annum, piece-work, or other basis: Provided, That in all cases where for special public reasons, to be determined by the head of the department or establishment having supervision or control of such employees, the services of such employees cannot be spared, such employees shall be entitled to an equal shortening of the workday on some other day: Provided further, That the provisions of this Act shall not deprive employees of any leave or holidays with pay to which they may now be entitled under existing laws.

"This is a mandatory provision which appears to involve either (1) a reduction in the amount of work accomplished, or (2) an increase in the number of employees engaged upon the work, or (3) the lengthening of the hours of work on other days of the week, or (4) the speeding up of the work of the individual employees so as to produce the same results in a shorter time.

"In many cases the fourth alternative will be possible but there will undoubtedly be some cases where this cannot fully meet the situation, and in arriving at a decision as to which of the first three alternatives to adopt in

such cases the question arises whether this mandatory provision of law would authorize the incurring of a deficiency in an appropriation for personal services or would justify the allocation of such appropriation in such a way as to involve the necessity for a supplemental appropriation. I should like your advice as to whether the Bureau of the Budget will entertain supplemental or deficiency estimates of appropriations for this purpose.

"Very respectfully

(Signed) PATRICK J. HURLEY
Secretary of War."

"BUREAU OF THE BUDGET
Washington

March 11, 1931.

"My dear Mr. Secretary:

"On March 10, 1931, you wrote me with regard to the act entitled 'An act providing for Saturday half holidays for certain Government employees,' approved March 3, 1931, and requested my advice as to whether the Bureau of the Budget would entertain supplemental or deficiency estimates of appropriations for this purpose.

"I have presented this matter to the President, and he has instructed me to advise you that he does not contemplate entertaining any supplemental or deficiency estimates for the purposes of the act of March 3, 1931.

"Statements of proponents of this act while it was pending before Congress clearly indicated that it was contemplated that substantially the same amount of work could be accomplished without increased cost to the Government, and it is the desire of the President that Federal employees be given the opportunity to demonstrate that the benefits conferred upon them by that act do not necessitate additional appropriations.

"In this connection your attention is also invited to the so-called Anti-Deficiency Act (U.S.C., title 31, sec. 665), which requires that funds appropriated for any year for personal services be so apportioned as to avoid the incurrence of obligations in excess of the amount appropriated in order to meet the service of the full fiscal year to which the appropriations relate.

"Sincerely yours,

(Signed) J. CLAWSON ROOP.
Director.

"The Honorable,
"The Secretary of War."

J. CLAWSON ROOP.
Director.

DEPARTMENT OF AGRICULTURE

WASHINGTON

MAR 20 1931

Ordered 3/24/31 #391

MEMORANDUM NO. 613

Amendment of the Administrative Regulations.

The first two paragraphs of section 16 of paragraph 568 of the Administrative Regulations of the Department, "Letters for signature of the Secretary," are amended as follows:

16. Arrangement of the file: Before transmitting a proposed letter for the Secretary's signature, the file should be neatly arranged in the following order:

(a) The red jacket with the "Memorandum of Action" properly filled out. This jacket should be the facing sheet of the file throughout its movement within a bureau or from bureau to bureau, to signal correspondence requiring Secretary's response.

(b) The outgoing letter.

(c) The enclosures, with the exception of bulletins or other bulky matter, and the addressed envelope.

(d) Carbons of the outgoing letter.

(e) Letter to which reply is made.

Previous correspondence, whether Secretary's or bureau, where needed as explanatory of the subject, should be attached beneath in chronological order, latest date upper.

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Arthur M. Hyde

Secretary.

The red jacket which accompanies letters for the signature of the Secretary should be kept on the top of the ~~letter~~ correspondence after it is prepared and sent to the Secretary's Office and remain on top until the letter ~~xx~~ is signed. This will expedite the handling of the Secretary's correspondence and also serve as a cover to protect the letter from getting soiled when handled.

(Mr Helgesson memo)

DEPARTMENT OF AGRICULTURE
WASHINGTON

Ordered 3/26/31 #392

3/26/31

MEMORANDUM NO. 614

Instructions to Employees Regarding Plant Patents

The Commissioner of Patents or officials designated by him are the proper sources of information regarding procedures to be followed in applying for plant patents or for any other information relating to plant patents.

In accordance with the Executive Order of October 17, 1930, the Commissioner of Patents has requested the assistance of the Department in the consideration of plant patents. In view of the lack of precedent in consideration of applications for plant patents, it is not yet possible to determine the extent to which different employees of the Department may be called upon to render service on the questions referred to the Department and, accordingly, all employees of the Department are advised that applications for plant patents, either of public service or of private character, cannot be considered or initiated by employees of the Department; and, further, with respect to individuals outside the Department, employees are advised that there is to be no response to inquiries as to the novelty of an alleged invention in advance of the filing of an application for a patent, nor to inquiries proposed with a view to ascertaining whether any alleged discoveries or improvements have been patented and, if so, to whom; nor can employees act as expounders of patent law or as counsellors for individuals.

Of the propriety of making an application for a patent, the inventor must judge for himself.

All employees handling applications for patents are required to pledge themselves to strict observance of the following:

> Pending applications are preserved in secrecy. No information will be given, without authority, respecting the filing by any particular person of an application for a patent or for the reissue of a patent, the pendency of any particular case before the office, or the subject matter of any particular application.

Arthur M. Hyde

Secretary.

United States Department of Agriculture
Bureau of Plant Industry

Office of Chief of Bureau

Washington, D. C., February 6, 1931.

Dr. W. W. Stockberger,

Director, Personnel and Business Administration.

Dear Dr. Stockberger:

I am returning herewith the memorandum of February 3 addressed to you by the Solicitor, together with my memorandum of December 10 addressed to the Secretary and the suggested memorandums for the Secretary's consideration entitled "Instructions to Employees Regarding Plant Patents" and "Instructions to Employees Concerned with Plant Patents."

The points of view suggested by the Solicitor were considered in this Bureau prior to the drafting of these instructions, which seemed advisable in the initial stages of the handling of the plant patent amendment. As the Solicitor suggests, decision in a question of this kind is essentially administrative and necessarily rests with the Secretary. We shall proceed with our consideration of applications for plant patents submitted to us by the Commissioner of Patents and, unless advised that the Secretary considers the suggested limitations unnecessary, will follow as a policy for this Bureau the sweeping restrictions upon applications for plant patents that are outlined in the more restrictive of the drafts of "Instructions" enclosed herewith.

Very truly yours,

Wm. A. Taylor,
Chief of Bureau

Enclosures

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF THE SOLICITOR

WASHINGTON, D. C.

FEB - 3 1931

Dr. W. W. Stockberger,

Director of Personnel and Business Adm.

Dear Dr. Stockberger:

Reference is made to the attached drafts of "Instructions to Employees Regarding Plant Patents", one of which you recommended for issuance by the Secretary. The favored regulation or instructions would prevent the filing of plant patent applications by employees of the Department.

I have given this matter careful consideration and feel that authority to issue such instructions rests in the Secretary. The problem would seem to be mostly administrative and the proposed instructions are suggested in an effort to place the Department beyond criticism in its handling of plant patent applications in cooperation with the Patent Office. I doubt however if any substantial good would be accomplished by that portion of the regulation preventing the filing of applications by employees of the Department. Employees of the Patent Office are prohibited by law from instituting patent proceedings. In passing the plant patent amendment to the patent laws, Congress did not see fit to prohibit the filing of plant patent applications by employees of the Department of Agriculture although providing for their participation in the administration of the amendment. It seems to me that plant patent applications present an entirely different situation than that encountered in the consideration of other classes of inventions. It is my understanding that successive crosses of the same plants do not produce the same result. I do not feel that the Patent Office would permit the patenting of a cross since a new plant is patentable and not the cross whereby it may be obtained. Bearing this in mind it would not seem that information obtained from a pending plant application would be of any value to one of our people who might wish to try his hand at producing a new plant. After being informed of all the acts done by the applicant in a pending application, the employee would still be unable, except possibly by remote chance, to produce the same result. It may be said that an employee considering a plant patent application might copy the specification and drawing and present an application of his own covering the new plant but if he were called upon to exhibit the plant he would be unable to do so unless he obtained it dishonestly from the real inventor which he probably would not be able to do unless he had access to the plant submitted by the inventor in connection with

his application. However, I do not understand that applicants are required to submit the plants for inspection. Furthermore, if he succeeded in unfairly obtaining a patent without being required to produce the new plant for inspection, he would then be without the stock to produce plants for sale. He could of course obtain plants after the real inventor had placed them on sale but this opportunity would also be available to all other persons.

It is the official duty of some of the Department's employees to develop new plants and I question the advisability of impairing the facilities for protecting our creations unless Congress so directs. It may be urged that publication of the facts relating to new plants developed by the Department would give protection comparable to patent proceedings. I do not agree with this view. Furthermore, a person so minded would have as much justification to criticise the Department for publishing the description of a claimed new plant covered by a pending patent application as he would have should a conflicting patent application be filed in behalf of an employee of the Department. It may be urged that the Department might be embarrassed in considering the applications of its own employees. However this same situation exists as to the Patent Office, that is to say, the regulations of that office do not prohibit the filing of patent applications by employees of the Department of Commerce outside the Patent Office.

It is suggested that further consideration be given to the matter. It may be advisable not to take any definite stand in the premises at this time, but await future developments except in so far as it may be desired to call attention to the confidential nature of all papers relating to patent applications.

Very truly yours,

Edward G. Marshall,

Solicitor.

UNITED STATES DEPARTMENT OF AGRICULTURE

BUREAU OF PLANT INDUSTRY

WASHINGTON

OFFICE OF CHIEF OF BUREAU

December 10, 1930.

MEMORANDUM FOR THE SECRETARY

WWS

Dear Mr. Secretary:

With reference to the relationship of this Department to the Patent Office in connection with plant patents, it appears desirable to call the attention of the employees of this Department to the very definite restrictions that are imposed on anyone having any direct or indirect connection with the consideration of applications for patents.

In consultation with Dr. Stockberger, two forms of memorandum have been outlined, one of which would be an instruction to all employees of the Department to observe unusual care in connection with all questions of plant patents, the other draft issuing these instructions only to those employees who may be directly or indirectly connected with the handling of applications transmitted to this Department from the Patent Office.

We recommend the adoption of the more general memorandum as, at the present time at least, it is difficult to determine what employees of the Department may in the near future be called into consultation in patent matters.

Very truly yours,

Wm. A. Taylor,
Chief of Bureau

Enclosures

DEPARTMENT OF AGRICULTURE

WASHINGTON

MEMORANDUM NO.

Instructions to Employees Concerned with Plant Patents

The Commissioner of Patents or officials designated by him are the proper sources of information regarding procedures to be followed in applying for plant patents or for any other information relating to plant patents.

Employees of the Department of Agriculture having any responsibility direct or indirect in connection with furnishing assistance to the Commissioner of Patents on plant patents in accordance with the Executive Order of October 17, 1930, are advised that there can be no response to inquiries as to the novelty of an alleged invention in advance of the filing of an application for a patent, nor to inquiries proposed with a view to ascertaining whether any alleged discoveries or improvements have been patented and, if so, to whom; nor can such employees act as expounders of patent law or as counsellors for individuals.

Of the propriety of making an application for a patent, the inventor must judge for himself.

Applications for plant patents cannot be considered when initiated by employees concerned directly or indirectly with the handling of patent applications referred to, and all employees handling patent claims are required to pledge themselves to strict observance of the following:

> Pending applications are preserved in secrecy. No information will be given, without authority, respecting the filing by any particular person of an application for a patent or for the reissue of a patent, the pendency of any particular case before the office, or the subject matter of any particular application.

Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE

DIRECTOR OF PERSONNEL AND BUSINESS ADMINISTRATION

WASHINGTON

Ordered by Sec #419 4-10-31

April 10, 1931.

MEMORANDUM NO. 615

Amendment of the Administrative Regulations

Par. 464 of the Administrative Regulations is amended to read as follows:

464. SUSPENSION DURING INVESTIGATION. - No recommendation of suspension of duty pending investigation should be submitted without a showing that the retention of the employee in a duty status would be detrimental to discipline or prejudicial to the investigation. The term of suspension shall not exceed 3 months, subject, with the prior consent of the Civil Service Commission, to extension for a further 3 months. No appropriation for the department may be used to pay compensation for a period of suspension, and the reduction of annual leave applicable to leave without pay, par. 524, shall be made with respect to the term of suspension.

Arthur M. Hyde

Secretary.

1/2/31

UNITED STATES DEPARTMENT OF AGRICULTURE

DIRECTOR OF PERSONNEL AND BUSINESS ADMINISTRATION

WASHINGTON

Mr Robbins
Will you take care of this as soon as possible
WWJ

Janauary 2, 1931.

MEMORANDUM FOR MR. JUMP.

Dear Mr. Jump:

Your attention is invited to paragraph 464 of the Administrative Regulations of this department, providing for suspension from duty during investigation. In this connection reference is made to the Comptroller General's decision of January 11, 1930 (A-30022). The Administrative Regulations should be amended to conform to the Comptroller General's decision and should provide for suspension only in cases as described in the first sentence of paragraph 464.

Very truly yours,

C. J. Forster

Investigator.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SOLICITOR
WASHINGTON

Jan. 29, 1931.

Dear Mr. Robbins:

An employee's rights would be the same whether the last sentence were included or not. I think it a mistake to include it for the following reasons: (1) it has the effect of giving the employee the idea that he could secure his pay, and (2) it is a gratuitous crack at the Comptroller. As it accomplishes no particular purpose, I would rather see it eliminated.

J. P. W.

DEPARTMENT OF AGRICULTURE

WASHINGTON

MEMORANDUM NO. ___

Amendment of the Administrative Regulations

Par. 464 of the Administrative Regulations is amended to read as follows:

464. SUSPENSION DURING INVESTIGATION. - No recommendation of suspension of duty pending investigation should be submitted without a showing that the retention of the employee in a duty status would be detrimental to discipline or prejudicial to the investigation. The term of suspension shall not exceed 3 months, subject, with the prior consent of the Civil Service Commission, to extension for a further 3 months. Rulings of the Comptroller General interdict payment from Federal appropriations of salary for a period of suspension. No department funds can therefore be used for this purpose, and the reduction of annual leave applicable to leave without pay, par. 524, shall be made with respect to the term of suspension. In the event, however, of suit by the employee for the recovery of compensation it is the purpose of this regulation to recognize the employee's right to pay for a period of suspension pending investigation of charges provided he is exonerated of the charges.

Draft originally prepared by L.O.R. 1/29/31

Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SOLICITOR
WASHINGTON, D. C.

APR - 3 1931

Mr. W. A. Jump,
Assistant Director,
Office of Personnel & Business Admin.

Dear Mr. Jump:

Receipt is acknowledged of your memorandum bearing date of March 11, 1931, wherein the proposed amendment to Paragraph 464 of the Administrative Regulations which has been heretofore approved by me, is enclosed for further consideration.

Although I am in accord with all you say with respect to the possible injustices that may occur through the operation of the amended regulation, I am unable to conceive of any method of changing the provisions thereof and yet remain in agreement with the Comptroller's decision, that appropriations for personal services are not available to pay an employee for a period during which he has rendered no service and was not in a pay status. In the event an employee is suspended, pending the determination of charges preferred against him, it will certainly not be proper for him to draw his salary during the period of suspension. On the other hand, it would also seem most unjust to penalize an employee to the extent of permanently withholding the salary accruing during such period of suspension, if he should be found to be innocent of the charges. In my opinion the logical reaction to the adoption of the amended regulation should be to cause the Department to exercise a greater degree of care and caution in the suspension of its employees.

I have noted what you say with regard to allowing the regulation to remain in its present form, which would have the effect of leaving open to a suspended employee the privilege of appealing from a decision of the Comptroller General, in order that he might secure his back pay through a reversal by the Court of Claims. Such a condition would undoubtedly be unsatisfactory and would cause friction between this Department and the Office of the Comptroller General. In the case of

Herbert S. Ward v. United States, the plaintiff, an employee of this Department, appealed from the decision of the Comptroller General, because of the disallowance of $1.50, incurred for maintenance under proper authorization and in accordance with Departmental regulations. The Comptroller General, on January 8, 1925, in disallowing the item said:

> "Claim for $1.50, expense of meal at Alexandria, Va., Oct. 6, 1924, is disallowed, for the reason that the travel involved only 2 hours 45 minutes absence from Washington, permanent station of claimant."

The Court of Claims in its Memorandum Opinion reversing the Comptroller General's decision (See 60 C. Cls. 1004), said:

> "The Secretary of Agriculture, duly authorized, had promulgated regulations in aid of and not in contravention of the statute and having, therefore, the force of law, and the item of expense herein sued for was an authorized charge under the regulations.
>
> The plaintiff was traveling outside the District on official business, under competent orders, at such hours of the day as entitled him to subsistence expense under the regulations, and we find no applicable limitations based upon the duration of an absence from the district or the distance therefrom which one must travel to become entitled to subsistence.
>
> The expense of a meal might be saved to the Government by seeing to it that an absence of this short duration be "sandwiched" between meal hours, but that is purely an administrative matter, and it is hardly to be expected that Government business be regulated by such minor considerations.
>
> It is not disputed that the plaintiff saw fit to eat during the hours of his absence from the District, which embraced a usual meal hour within the regulations, or that he ate, at the expense claimed, and no reason appears why he should not be reimbursed accordingly."

Notwithstanding this reversal, the Comptroller General subsequently advised the Secretary of Agriculture, under date of August 11, 1925, (5 Comp. Gen. 100) that the decision in question "can not be accepted by this office as establishing a contrary ruling for the disbursement of general appropriations."

In view of the attitude of the Comptroller General with respect to matters of this nature, I feel as you do that the only logical procedure is for the Department to function under the amended regulation

until remedial legislation in the nature of H. R. 10297, hereto attached, has been duly passed and approved.

Very truly yours,

Felton M. Marshall,
Solicitor.

Enclosure.

71st CONGRESS
2d Session

H. R. 10297

IN THE HOUSE OF REPRESENTATIVES

February 26, 1930

Mr. Dunbar introduced the following bill; which was referred to the Committee on the Civil Service and ordered to be printed

A BILL

Providing for the payment of civilian employees of the Government for any period of suspension from duty while under unsustained charges of official misconduct.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any civilian employee of the Government of the United States who has been suspended from duty pending the investigation of charges of official misconduct against him shall, upon acquittal of such charges, receive compensation for such period of suspension at the rate of pay such employee was receiving at the time of such suspension, and in addition thereto compensation for any accrued leave such employee was compelled to forfeit as the result of such suspension at the rate of pay received during the period of such accrual.

71st CONGRESS
2d Session } **H. R. 10297**

A BILL

Providing for the payment of civilian employees of the Government for any period of suspension from duty while under unsustained charges of official misconduct.

By Mr. Dunbar

February 26, 1930

Referred to the Committee on the Civil Service and ordered to be printed

3-7-32

MEMORANDUM FOR THE SOLICITOR:

While the attached proposed amendment of par. 464 of the Administrative Regulations originated in this office in order to bring the regulations in harmony with the current rule as laid down by the Comptroller General, and although it has been initialed in your office, I can not escape a feeling of some reluctance at seeing it go into the regulations in just this way if there is any alternative, and am wondering whether, in the event the point I am raising appeals to you as a worth while question, your office could suggest or devise any better way to deal with the situation than the one we are proposing?

In the past we have operated under a regulation which provided that if the charges against a suspended employee were not sustained his period of suspension would be with pay. The Comptroller has held that this no longer can be done. It is conceivable that circumstances might arise any day whereby the Secretary would feel constrained to suspend a man immediately, even summarily, subject to development of the facts as soon as they might be developed. For example, suppose we were to receive a cablegram from some remote point like the Virgin Islands or Guam saying that our representative was at the moment conducting himself in such manner that on the face of it the Department ought to immediately suspend the man from duty pending investigation and/or developments. The cablegram, for example, might be from what at that time was supposed to be an authoritative source but upon investigation it might be found that the source after all was not authoritative and that the representative of the Department had been falsely reported upon in an aggravated and gross manner. Several weeks might easily elapse while this information was being established, and while the Department would in that event immediately restore the representative to duty, he nevertheless would have been unjustly deprived of his salary during that period, not to mention the other suffering imposed upon him by reason of the Department's action which, though fully justified at the moment from the standpoint of the Department, was later found to be on a false premise. Aside from possible injustice to an employee, I fear the new basis might tend to make the Department more hesitant than would be justified in the interest of good administration to suspend subject to investigation. In other words, we might not feel constrained to act as promptly as would be the case if we knew that the employee involved, in the event the charges were not sustained, would be done no injury as to loss of compensation unjustly.

DEPARTMENT OF AGRICULTURE

WASHINGTON

Ordered dup Sec 458 3/14/31

MAY 14 1931

MEMORANDUM NO. 616

Federal Statistics Board

1. Mr. Milton S. Eisenhower, Director of Information, and Dr. O. C. Stine, in charge of the Division of Statistical and Historical Research, Bureau of Agricultural Economics, have been designated as the representatives of the Department of Agriculture on the Federal Statistics Board established by Budget Circular 293, dated April 10, 1931.

2. Paragraph 4 of the Budget Circular above referred to reads as follows:

> It shall be the duty of the Federal Statistics Board to study the existing situation with regard to the collection, compilation, dissemination and utilization of statistics by agencies of the Federal Government and to make recommendations to the Chief Coordinator looking to the elimination of needless duplication in statistical work and the fullest possible utilization of statistical information collected and the personnel and facilities concerned therewith, as well as the most effective and economical means of procuring additional statistics for which there may be a reasonable demand.

3. All members of the Department are asked to cooperate in the work of this Board.

Arthur M. Hyde

Secretary.

Miss J Please prepare
Dept Memo
Numbered

Federal Statistics Board

1. Mr. Milton S. Eisenhower ~~and~~ Director of Info & Dr O C Stine in charge etc etc have been designated as the representatives of the Dept of Agr on the Federal Statistics Board established by Budget Cir 293, dated 4/10/31.

2. Paragraph 4 of the Budget Cir above referred to reads as follows:

quote & indent

3. All members of the Dept are asked to cooperate in the work of this Board.

Secy

DEPARTMENT OF AGRICULTURE

WASHINGTON

June 1, 1931.

Ordered up Sec 479 6-1-31

MEMORANDUM NO. 617

Bureau of Agricultural Engineering

Mr. S. H. McCrory, head of the Division of Agricultural Engineering in the Bureau of Public Roads, is hereby designated as Chief of the Bureau of Agricultural Engineering, which becomes established on July 1st, 1931.

Arthur M. Hyde

Secretary.

DEPARTMENT OF AGRICULTURE
WASHINGTON, D. C.

Ordered duplicated 6-17-31 # 509 Sec

JUN 15 1931

MEMORANDUM NO. 618

Amendment to the Administrative Regulations.

That portion of Paragraph 693 of the Administrative Regulations specifying the localities adjacent to the District of Columbia in which employees may be candidates for or hold municipal office is hereby amended to read as follows:

In Maryland - Takoma Park, Kensington, Garrett Park, Chevy Chase, Glen Echo, Hyattsville, Mount Rainier, Somerset, North Beach, Capitol Heights, Laurel, Riverdale, Brentwood, Bladensburg, Berwyn Heights, Cottage City, North Brentwood, Edmonston, Colmar Manor, Fairmont Heights, Eagle Harbor, Cobb Island.

In Virginia - Falls Church, Vienna, Herndon, Potomac, and Arlington County.

This amendment is necessary in order that the Department Administrative Regulations may be in conformity with existing Civil Service Rules.

Arthur M. Hyde

Secretary.

3

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D. C.

C:WLQ:Mc

May 27, 1931.

DEPARTMENTAL CIRCULAR NO. 75.

SUBJECT: Participation by Federal employees in the government of Arlington County, Virginia.

TO HEADS OF DEPARTMENTS AND INDEPENDENT ESTABLISHMENTS:

The Commission incloses herewith copy of an Executive order signed May 20, 1931, which is self explanatory, providing for participation in the government of Arlington County, Virginia, by Federal employees permanently residing therein.

By direction of the Commission:

Very respectfully,

John T. Doyle

John T. Doyle,

Secretary.

Inclosure,

May 27/31.

(COPY)

EXECUTIVE ORDER

PARTICIPATION IN THE GOVERNMENT OF ARLINGTON COUNTY, VIRGINIA, BY FEDERAL EMPLOYEES PERMANENTLY RESIDING THEREIN

Officers and employees of the executive civil service permanently residing in Arlington County, Va., may become candidates for and hold local office in such county and may participate in campaigns for election to such offices.

In the exercise of the privilege granted by this order, officers and employees must not neglect their official duties and must not engage in national or state politics in violation of the civil-service rules. If there is such violation, the head of the department or independent office in which the person is employed shall inflict such punishment as the Civil Service Commission shall recommend.

Officers and employees elected or appointed to offices requiring full-time service shall resign their positions with the Federal Government. If elected or appointed to offices requiring only part-time service, they may accept and hold same without relinquishing their Federal employment, provided the holding of such part-time office does not conflict or interfere with their official duties as officers or employees of the Federal Government.

This order is based upon the facts that Arlington County is substantially a municipality, that a considerable number of the residents and taxpayers are employed in the Government service, that service as local officers in such county should in no way involve general partisan political activity, and that the principle of home rule and local self-government justifies such participation.

The permission granted by this order may be suspended or withdrawn by the Civil Service Commission when, in its opinion, the activities resulting therefrom are, or may become, detrimental to the public interest or inimical to the proper enforcement of the civil-service rules.

HERBERT HOOVER

THE WHITE HOUSE,

May 20, 1931.

5627

Dir. Order 62.
Aug. 19. 1931
BVP.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON

August 20, 1931.

MEMORANDUM NO. 619.

(AMENDMENT TO MEMORANDUM NO.580)

Because of the necessity of providing more time for the consideration of data from the most important States by the Crop Reporting Board when preparing the Monthly Crop Reports, Section 7 of Memorandum No.580, "Preparation of the Monthly Crop Reports of the Department of Agriculture" of May 8, 1928, as amended March 31, 1930, is amended to read as follows:

"Sec. 7. Data used by the Board in the preparation of the monthly crop reports shall be considered as of two classes:

(a) Speculative data, which are defined to be data relating to corn, wheat, oats, or cotton, the assembling and collating of which would make it possible to enable any member, members or assistants of the Board to approximately anticipate the Board's forthcoming report on the condition, yield, probable production, or stocks, of corn, wheat, oats, or cotton, for the United States, For the purpose of this regulation speculative data shall be restricted to the above data for:

(1) Corn in Iowa, Illinois, Nebraska, Missouri, Indiana, Ohio, Minnesota, Kansas, and South Dakota.

(2) Winter wheat in Kansas, Illinois, Nebraska, Ohio, Indiana, Missouri and Washington.

(3) Spring wheat in North Dakota, Montana, South Dakota, Minnesota, Idaho and Washington.

(4) Oats in Iowa, Minnesota, Illinois, South Dakota, Nebraska, Ohio, North Dakota, Indiana, Missouri and Kansas.

(5) Cotton in Texas, Mississippi, Oklahoma, Arkansas, Alabama, Georgia, North Carolina, South Carolina, Louisiana, and Tennessee.

(6) Any other data, than specified above, which the Chairman shall define as speculative.

(b) Non-speculative data, which are defined to be data other than speculative data mentioned above, and which may be at all times forwarded directly to the Board by the officers in charge of the Field Offices of the division."

These regulations as hereby amended shall be effective at once and may be further amended at any time by the Secretary of Agriculture.

Arthur M. Hyde

Secretary.

UNITED STATES DEPARTMENT OF AGRICULTURE

BUREAU OF AGRICULTURAL ECONOMICS

WASHINGTON, D. C.

July 23, 1931.

MEMORANDUM FOR THE ACTING SECRETARY.

Dear Mr. Dunlap:

There is transmitted herewith a draft of amendment to memorandum Number 580, as amended, entitled "Preparation of the Monthly Crop Reports of the Department of Agriculture".

It is imperative that as much time as possible be given by the Crop Reporting Board to the consideration of data for corn, wheat, and oats in the States most important in the production of these crops. The proposed amendment will remove a few scattered States from the list of so-called "speculative States" without in any way endangering the safeguards surrounding the handling of this material prior to the release of these reports.

In the case of corn, wheat and oats, more than two-thirds of the production will still remain in the speculative group for each crop. The remaining part of the production is so scattered geographically, and in time of harvest, that any such data available to the Board from the field offices will be wholly inadequate to make a preliminary estimate for the United States. It is recommended that the amendment submitted herewith be approved.

Very truly yours,

C. W. Kitchen

Acting Chief of Bureau.

Enclosure.

Sup. Order #60
8/20/31

DEPARTMENT OF AGRICULTURE
WASHINGTON

August 20, 1931.

MEMORANDUM NO. 620.

Amendment of the Fiscal Regulations.

The Fiscal Regulations of the Department are amended by addition of the following new paragraph:

> 64.1. AUTOMOTIVE EQUIPMENT. - All bids for automotive equipment, including tractors and boats, shall be obtained, and acceptance thereof made, by the chief of the division of purchase, sales, and traffic.

The closing paragraph of par. 64 of the Fiscal Regulations, viz.: "Passenger-carrying motor-driven vehicles and motion picture cameras and projection machines must not be purchased without the specific authority of the director of purchases and sales," is amended to read:

> Motion picture cameras and projection machines must not be purchased without the specific authority of the chief of the division of purchase, sales and traffic.

Arthur M. Hyde

Secretary.

DIRECTOR OF
PERSONNEL AND BUSINESS ADMINISTRATION

July 24, 1931.

Mr. Jump:

The attached draft reduces to its smallest terms the proposed change of purchase procedure involving automobiles, automobile trucks, and tractors. I presume you will wish to have Mr. Robbins pass on it before we write it up in final form for the Secretary's signature.

AMcGA

Rough Draft.

Proposed Change in Fiscal Regulations.

Hereafter, all requests for proposals on ~~passenger-carrying automobiles, automobile trucks, and~~ automotive equipment, including tractors, boats, etc., shall be issued, upon bureau requests, by the Division of Purchase, Sales and Traffic, and all acceptances based upon such advertisements shall be made by the chief of that division. The fiscal regulations of the Department are amended accordingly.

6 + last ¶

DEPARTMENT OF AGRICULTURE

WASHINGTON, D. C.

Ordered dup Sec 17 Sec 11-7-31 (2)

NOV 7 - 1931

MEMORANDUM NO. 621

Subsistence Allowances.

In order to reduce expenditures and conserve appropriations, effective November 15, 1931, and continuing until further notice, the maximum per diem allowance payable in the Department in lieu of subsistence expenses will be $5.00 and the maximum allowance for actual expenses of subsistence will be $6.00 per diem. These maximum rates will apply to all officers and employees of the Department when in a travel status in the continental United States.

For official travel beyond the limits of the continental United States a per diem of not to exceed $6.00 in lieu of subsistence expenses or actual subsistence expenses not to exceed an average of $7.00 per diem may be allowed.

Arthur M. Hyde

Secretary.

Ordered Dec 11, 1931 Sec 216 (R)

DEPARTMENT OF AGRICULTURE

WASHINGTON, D. C.

DEC 10 1931

MEMORANDUM NO. 622

Amendment of the Administrative Regulations.

Par. 489 of the Administrative Regulations of the Department is amended to read as follows:

489. MILITARY LEAVE. — Military leave is distinct from ordinary annual or sick leave. It means the relief from department duty "without loss of time, pay, or efficient rating" to which permanent (not temporary) employees are entitled by law when members of prescribed military organizations and under the following conditions:

Members of the national guard: Without limit as to the number of days, for periods of field or coast defense training authorized by secs. 80 and 92 of the national defense act of June 3, 1916. But no military leave accrues for duty under orders of the governor of a state for the suppression of strikes and riots.

Members of the national guard of the District of Columbia: Without limit as to the number of days for any service ordered by the commanding general. The limitations as to character of service (field or coast defense training) affecting members of the national guard generally do not apply.

Members of the naval reserve, Training duty not exceeding 15 days, Sundays and holidays included, in any one calendar year.

Officers Reserve Corps: Duty with troops, at field exercise or for instruction, not exceeding 15 days, Sundays and holidays included, in any one calendar year.

Members of the naval reserve who have exhausted military leave and take regular annual leave to cover military duty in excess of 15 days may receive both department salary and naval reserve pay and allowances for the additional period, irrespective of the aggregate amount. Members of the officers reserve corps under the same conditions may not receive compensation from both sources if the annual rates exceed $2,000 in the aggregate.

The amendment, aside from textual rearrangement, brings out the distinction between members of the national guard of the District of Columbia and those of the national guard generally as to the character of service entitling to leave. It also takes note of the exemption of members of the naval reserve from the legislative restriction as to double compensation aggregating more than $2,000, title 34, sec. 753, U. S. Code.

C. T. Marvin

Acting Secretary.